

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-522-FDW
(3:14-cr-264-FDW-1)**

| | | |
|----------------------------------|---|---------------------|
| TRAVIS DEON ROSEBORO, |) | |
| |) | |
| Petitioner, |) | |
| vs. |) | <u>ORDER</u> |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |
| |) | |
| _____ |) | |


THIS MATTER comes before the Court on its own motion following Petitioner’s failure to respond to this Court’s order dated July 29, 2016, pursuant to United States v. Castro, 540 U.S. 375 (2003), giving Petitioner the notice and opportunity to state whether he intended to bring this action as a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255.

As the Court explained in its prior order, Petitioner submitted a document to this Court on June 30, 2016, in the form of a letter, in which Petitioner appears to contend that his plea in his underlying criminal action was involuntarily made. On June 30, 2016, the Clerk of this Court docketed this action as a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255.

The Court’s prior order gave Petitioner 20 days in which to inform the Court whether he would like to have this Court construe his motion as a Section 2255 petition. The Court’s order expressly warned that if Petitioner did not respond within 20 days of service of the Order, the Court would dismiss this action without prejudice to Petitioner. Because Petitioner has not responded to the Court’s prior order, this action is, therefore, dismissed without prejudice.

IT IS, THEREFORE, ORDERED that:

1. The action is **DISMISSED** without prejudice.
2. The Clerk is instructed to terminate this action.


Frank D. Whitney
Chief United States District Judge

